



POLICE DEPARTMENT

April 14, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer John Dziedzic  
Tax Registry No. 930087  
Grand Larceny Division  
Disciplinary Case No. 2014-11649

Police Officer Leonardo Nimo  
Tax Registry No. 928869  
13 Precinct  
Disciplinary Case No. 2014-11648

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The above-named members of the Department appeared before the Court on March 4, 2015, charged with the following:

Disciplinary Case No. 2014-11649

1. Said Police Officer John Dziedzic, while assigned to the 13th Precinct, on October 22, 2013, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said police officer was processing an arrest and left his prisoner unattended in a 13th Precinct holding cell.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS  
P.G. 208-02, Page 2, Paragraph 6 – ARRESTS

2. Said Police Officer John Dziedzic, while assigned to the 13th Precinct, on October 22, 2013, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said police officer left his prisoner in a 13th Precinct holding cell to go to the store and failed to notify the desk officer prior to leaving the precinct.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

Disciplinary Case No. 2014-11648

1. Said Police Officer Leonardo Nimo, while assigned to the 13th Precinct, on October 22, 2013, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said police officer was processing an arrest and left his prisoner unattended in a 13th Precinct holding cell.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS  
P.G. 208-02, Page 2, Paragraph 6 – ARRESTS

2. Said Police Officer Leonardo Nimo, while assigned to the 13th Precinct, on October 22, 2013, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said police officer left his prisoner in a 13th Precinct holding cell to go to the store and failed to notify the desk officer prior to leaving the precinct.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

The Department was represented by Jennifer Kim, Esq., Department Advocate's Office.

Respondents were represented by Michael A. Martinez, Esq., Worth, Longworth & London LLP.

DECISION

Respondents, having entered a plea of Guilty to the subject charges through their counsel, are found Guilty as charged. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

FINDINGS AND ANALYSIS

The facts in this case generally were undisputed. Respondents were assigned to the 13 Precinct anticrime team. On October 22, 2013, they made a total of three arrests. Respondent Dziedzic was the arresting officer for the first two arrests and Respondent Nimo was the arresting officer for the third arrest. Respondents returned with the prisoners to the 13 Precinct

station house on East 21st Street between Second and Third Avenues and lodged them in the cells.

Respondents shared the arrest processing duties. Respondent Nimo took charge of the online-form processing, while Respondent Dziedzic fingerprinted and photographed the prisoners. While the fingerprinting was done in the same room as the cells, the only computer available to work on the other paperwork was located down the hall from where the prisoners were lodged.

Respondents testified that their prisoners started complaining they were hungry or thirsty. They indicated that as experienced officers, they wanted to keep their prisoners satisfied so as to avoid problems. Separately, each Respondent left the station house and went around the corner to Third Avenue to pick up items for the prisoners. The process took each about 10 or 15 minutes. As is relevant to the charges, however, each Respondent did not tell the other that he was leaving, or get anyone else to cover the prisoners in the cells. Nor did Respondents tell the desk officer. Respondents agreed at the hearing that it was possible both Respondents were out of the station house at the same time.

Around the same time, Police Officer Vinceta Gishard also had a prisoner lodged in the cells. At some point, while Respondents' prisoners still were in the cells, Gishard's prisoner escaped the cells and the station house. A Level I mobilization was declared and the prisoner, who also lived within the confines of the 13 Precinct, was re-captured shortly thereafter at his home. There was no evidence of whether Respondents were present or not when the prisoner escaped. Respondents were interviewed as witnesses with regard to the circumstances surrounding the escape of Gishard's prisoner. The instant charges and specifications were brought as a result of those interviews.

Gishard pleaded guilty to charges and specifications in exchange for a recommended penalty of 10 vacation days (see *Case No. 2013-10894*, approved by Police Comm'r on Feb. 26, 2015). The Advocate recommended that Respondents receive the same penalty. That is baffling to say the least. Gishard was charged with failing to safeguard her prisoner, who actually escaped. Respondents, on the other hand, are charged in a lesser manner, with leaving their prisoners unattended and leaving the station house without informing a supervisor.

Serious consequences can and have resulted from ignoring prisoners left in holding cells, consequences that have been more serious than in Gishard's case. See Case No. 79665/04, p. 6 (Jan. 10, 2005) (officer was doing paperwork in another room when prisoner committed suicide in cell). In comparison, Respondents' actions of leaving a prisoner in a holding cell without obtaining relief, and leaving the precinct without permission of the desk officer, is relatively less serious. See Case No. 72474/97, p. 4 (July 6, 1998). Ten days for Gishard's misconduct is well within precedent, but the same amount of time for Respondents' misconduct is not.

Although Respondents' counsel recommended a reprimand only, this was not a situation in which retraining would be pertinent. Respondents well knew that they were not supposed to leave the prisoners unattended. Leaving for provisions was fine, but they needed to have coverage for their prisoners and notify the desk officer.

Therefore, the Court recommends that Respondents be penalized with the loss of four vacation days each.

In order to determine an appropriate penalty, Respondents' service records were examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent Dziedzic was appointed to the Department on July 1, 2002. Respondent Nimo was appointed on

July 2, 2001. Information from their personnel files that was considered in making this penalty recommendation is contained in the attached confidential memoranda.

Respectfully submitted, *DSW*

*David S. Weisel*

David S. Weisel  
Assistant Deputy Commissioner – Trials

**APPROVED**

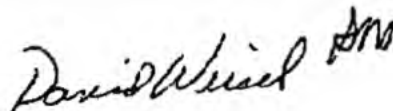
JUL 27 2015  
*William J. Bratton*  
WILLIAM J. BRATTON  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER JOHN DZIEDZIC  
TAX REGISTRY NO. 930087  
DISCIPLINARY CASE NO. 2014-11649

In his most recent performance evaluation, Respondent Dziedzic received an overall rating of 3.5 "Highly Competent/Competent." In both 2013 and 2014, he was rated 4.0 "Highly Competent." He has been awarded five medals for Excellent Police Duty. [REDACTED] He has no prior formal disciplinary record.

For your consideration.



David S. Weisel  
Assistant Deputy Commissioner – Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

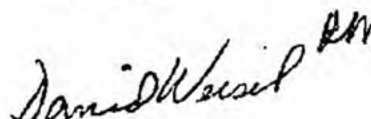
From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER LEONARDO NIMO  
TAX REGISTRY NO. 928869  
DISCIPLINARY CASE NO. 2014-11648

On his last three annual performance evaluations, Respondent Nimo received an overall rating of 4.5 "Extremely Competent/Highly Competent." He has been awarded three medals for Excellent Police Duty. [REDACTED]

[REDACTED] In March 2009, he was placed on Level I Force Monitoring for receiving three or more CCRB complaints within a year.

Respondent has been the subject of one prior adjudication. In 2009, he pled guilty to failing to properly voucher property, failing to enter the circumstances and description of the property in his activity log, engaging in unauthorized off-duty employment, and wrongfully providing false documentation to the Paid Detail Unit in order to excuse his failure to appear at a scheduled paid detail. For this he forfeited a penalty of 45 vacation days.

For your consideration.



David S. Weisel  
Assistant Deputy Commissioner – Trials